

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

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U.S. DISTRICT COURT
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TX EASTERN-BEAUMONT

BY Marilyn Perry

LYONDELL CHEMICAL COMPANY §
and §
ATLANTIC RICHFIELD COMPANY, §

Plaintiffs §

VS. §

ALBEMARLE CORPORATION, §
ET AL., §

Defendants §

C.A. NO. 1:01CV890
(Judge Howell Cobb)

**ORIGINAL ANSWER OF DEFENDANT E.R CARPENTER, L.P.,
SUCCESSOR IN INTEREST TO CARPENTER CHEMICAL COMPANY,
SUBJECT TO DEFENDANT E.R CARPENTER, L.P.'S OPPOSED MOTION
FOR A MORE DEFINITE STATEMENT UNDER FRCP RULE 12(e)**

Subject to its opposed motion for a more definite statement under FRCP Rule 12(e), Defendant E.R. Carpenter, L.P. ("Carpenter"), successor in interest to Carpenter Chemical Company, answers the Original Complaint of Plaintiffs Lyondell Chemical Company and Atlantic Richfield Company (hereinafter the "Complaint") as follows in paragraphs corresponding to the allegations.

ANSWER

1. Carpenter admits that this is a civil action brought by Plaintiffs under CERCLA concerning the Petro-Chemicals Systems, Inc. Superfund Site, also known as the Turtle Bayou Site, in Liberty County, Texas (hereinafter the "Site"). However, Carpenter is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in paragraph 1.

2. Carpenter is without sufficient knowledge or information to form a belief as to the

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truth of the allegations in paragraph 2.

3. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 3.

4. Denied. Carpenter Chemical Company is a dissolved Virginia corporation. Defendant E.R. Carpenter, L.P. is the successor in interest to Carpenter Chemical Company.

5. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 5.

6. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 6.

7. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 7.

8. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 8.

9. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 9.

10. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 10.

11. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 11.

12. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 12.

13. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 13.

14. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 14.

15. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 15.

16. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 16.

17. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 17.

18. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 18.

19. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 19.

20. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 20.

21. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 21.

22. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 22.

23. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 23.

24. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 24.

25. Carpenter is without sufficient knowledge or information to form a belief as to the

truth of the allegations in paragraph 25.

26. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 26.

27. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 27.

28. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 28.

29. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 29.

30. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 30.

31. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 31.

32. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 32.

33. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 33.

34. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 34.

35. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 35 as such allegations relate to other defendants.

36. Carpenter admits that it is a "person" as defined in 42 U.S.C. § 9601(21); however, Carpenter is without sufficient knowledge or information to form a belief as to the truth

of the allegation that it is a liable “person” within the meaning of 42 U.S.C. § 9607. Furthermore, Carpenter is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations of paragraph 36 as they relate to other defendants.

37. Admitted.

38. Admitted.

39. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 39.

40. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 40.

41. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 41.

42. Paragraph 42 sets forth legal conclusions to which no response is required. To the extent that its response is necessary, Carpenter admits that the statute reads as alleged.

43. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 43.

44. Paragraph 44 sets forth legal conclusions to which no response is required. To the extent a response is necessary, Carpenter admits that the statute reads as alleged.

45. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 45.

46. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 46.

47. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 47.

48. Paragraph 48 sets forth legal conclusions to which no response is required. To the extent that a response is necessary, Carpenter admits that the statute reads as alleged.

49. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 49.

50. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

51. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 51.

52. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 52.

53. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 53.

54. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 54.

55. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 55.

56. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

57. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 57.

58. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 58.

59. Carpenter incorporates herein by reference its responses to paragraphs 1 through

49.

60. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 60.

61. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 61.

62. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

63. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 63.

64. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 64.

65. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

66. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 66.

67. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 67.

68. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 68.

69. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

70. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 70.

71. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 71.

72. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

73. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 73.

74. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 74.

75. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

76. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 76.

77. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 77.

78. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

79. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 79.

80. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 80.

81. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

82. Carpenter is without sufficient knowledge or information to form a belief as to the

truth of the allegations in paragraph 82.

83. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 83.

84. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

85. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 85.

86. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 86.

87. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

88. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 88.

89. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 89.

90. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

91. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 91.

92. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 92.

93. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

94. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 94.

95. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 95.

96. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

97. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 97.

98. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 98.

99. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

100. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 100.

101. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 101.

102. Carpenter incorporates herein by reference its responses to paragraphs 1 through 49.

103. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 103.

104. Carpenter is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 104.

AFFIRMATIVE DEFENSES

105. Plaintiffs have failed to state a claim upon which relief can be granted.

106. Carpenter is not liable in whole or in part to Plaintiffs because Plaintiffs' claims are barred by the applicable statute of limitations.

107. Carpenter is not liable for the claims of the Plaintiffs because such claims are barred in whole or in part by the doctrines of laches, waiver and estoppel.

108. Plaintiffs' claims against Carpenter are barred by the third-party causation defense set forth at 42 U.S.C. § 9607(b)(3).

109. Carpenter is not liable for the claims of Plaintiffs because Plaintiffs are barred from recovery under the equitable doctrines of unclean hands and *in pari delicto*.

110. Plaintiffs' claims against Carpenter are barred to the extent that the substances, if any, which Carpenter allegedly disposed or allegedly arranged for the disposal at the Site, are petroleum or non-hazardous substances mixed with petroleum and are excluded from liability provisions of CERCLA.

111. Plaintiffs' claims are barred to the extent they seek to recover costs under 42 U.S.C. § 9607 since, upon information and belief, Plaintiffs themselves are liable parties under 42 U.S.C. § 9607.

PRAYER

WHEREFORE, Carpenter prays that it have judgment and that the Plaintiffs take nothing by reason of their claims. Carpenter further prays for such other and further relief to which it may be justly and equitably entitled.

Respectfully submitted,

By: 

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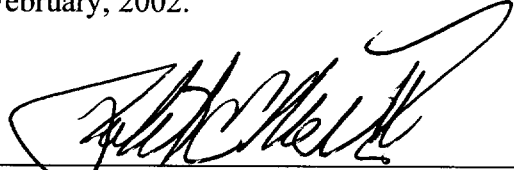
ATTORNEY-IN-CHARGE FOR DEFENDANT
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded by certified mail, return receipt requested and/or by facsimile and/or by hand delivery to all known counsel of record this the 8th day of February, 2002.


Robert E. "Robin" Morse, III